

BOARD OF SELECTMEN MEETING

Minutes of June 29, 2020

CALL TO ORDER: Chairman Ross McLeod called the meeting to order at 7:00 pm. Selectmen Roger Hohenberger and Bruce Breton were present in the meeting room; with Mr. McLeod, Selectmen Heath Partington and Jennifer Simmons, and Town Administrator David Sullivan in attendance via Zoom Conference.

Mr. McLeod opened with the Pledge of Allegiance, then read a statement relative to the Governor's Executive Order 2020-04 #12, which authorizes the Board of Selectmen to meet electronically provided public access is available via telephone or electronic means. He read the access phone number, text message number, and email address available for use by the public.

Mr. McLeod then conducted a roll call of all participants to ensure they were conferencing in alone; which each confirmed.

ANNOUNCEMENTS: Mrs. Simmons advised the Searles Trustees have made no decision regarding the re-opening of the facility. She then made several announcements on behalf of Recreation:

- Town beach is open; Windham residents can obtain their pass at the Beach.
- The Easter Egg Hunt will take place on July 1 at Griffin Park; ages 0-2, 6P, ages 3-9, 6:30P. Kona Ice will also be there.
- Town Beach and parking lot will be closing at 5P on July 3 and remain closed until dawn of 7/4.
- There will be a PopRoks concert at Griffin Park on 7/14 at 6:30P.
- Nicole Knox Murphy concert will take place on 7/29 at 7P on the Town Common; sponsored by the Senior Center.
- Playgrounds and parks are now open; not sanitized, use it at ones' own risk; social distance.
- Community Services Officer Jake Hoag will host a turtle talk at the Town Beach on 7/2 at 10A to discuss snapping turtles. There will be free popsicles for the kids; residents only.
- Thank you to Chief McPherson and the Department for checking in on the beach and lifeguards, and to Captain Caron and the Department for assisting in addressing issues at the beach and parks.

TAX ASSESSOR: Mr. Joe Lessard of MRI was present via Zoom, and explained that while the property at 13A-198 is owned by AFS Realty, it is leased to and used by Windham Academy charter school. He noted there is a specific state statute which, if adopted by the Town, allows charter schools located within and paying rent to a taxable entity to pay not more than 10% of what the property taxes would be. Mr. Lessard advised that neither he nor the school was aware of this in time to place it on the ballot, thus the tax bill, which the school has to pay, is \$47,000. He indicated Windham Academy had filed for an abatement which, if granted, will benefit the school.

Mr. McLeod inquired what, absent any action from the Board, the tax rate would be, and Mr. Lessard replied 100%. Mr. McLeod sought clarification that the request is that the Board look at RSA 72:23, which would put the percentage at 10%. Mr. Lessard replied in the affirmative, but clarified that because the statute is not in place, the Board would have to handle this case as an abatement and then put the Statute on the ballot for adoption. He advised this would be an abatement of the 2019 taxes as opposed to the adoption of the Statute; adding if the latter were in place, the taxes would have been \$4,700.

Mr. Sullivan noted that, had the Statute been in place, this would not have been before the Board.

Mr. Karl Dubay explained that the property is 100% utilized by a NH public school; adding it consists of 25K sft. He advised that the owner has spent millions on the facility and rents it to the Academy. Mr. Dubay noted that all public schools have property assessments, however they are exempt from paying taxes. He advised they are requesting a 100% abatement noting they have approximately 40 Windham students, which saves the Town significantly. Mr. Dubay feels they meet the criteria; adding they are unique, but are a State school and would be the only one to have to pay taxes.

Mr. McLeod clarified that the taxes are \$47,526 and, if the Board were to go under the Statute if it were in effect, they would instead be \$4,752. Mr. Dubay replied in the affirmative.

Mr. Hohenberger noted he would be in favor of granting the abatement, but would want to ensure the abatement form contains verbiage that as long as the Academy remains the occupant the abatement is valid, and also that all money released goes to the school. He indicated he wanted something to ensure the Town is doing it for the Academy and that the latter benefits.

Discussion ensued, and Mr. Sullivan clarified this abatement would be for this year only, but the Board could make the vote contingent upon the School being the beneficiary of the net of the abatement as the intent is to benefit them.

Mr. Dubay clarified that the Academy has a long-term lease and is solely responsible for the taxes; adding this bill is not in their budget. He noted that Director Leboeux would like to reinvest those monies back into the kids, and that could be put in writing with full support of the owner.

Mr. Breton concurred with Mr. Hohenberger; supporting a 100% abatement and inclusion of a warrant article next year to adopt the statute. Discussion ensued.

Mr. Partington sought clarification as to what was paid last year, and Mr. Dubay replied approximately \$48K; adding the taxes will also likely increase as the owner keeps investing in the building.

Mr. Partington inquired what the taxes were before the school, as he would like to gauge the difference in revenue. Mr. Lessard replied that in 2018 when the building was not used as a school the assessment was \$1,730,000 whereas now it is \$2,107,000; adding he did not know what 2020 will be given the revaluation. Mr. Sullivan added that, in 2018, the taxes were approximately \$39K.

Mr. Partington sought clarification as to whether the other schools receive abatements, and Mr. Lessard replied they have been exempt from taxes in the past. He noted that, in conjunction with the 2020 revaluation, all exemptions are being reviewed for presentation to the Board.

Mr. Partington then noted that while he understood there is some savings to the Town with having students in the charter school, he did not believe it was as simple as Mr. Dubay made it seem. He also noted the Board cannot predict whether the warrant article would pass, indicating he felt there was a reason this had to go to the taxpayers, and that he would not support more than a one year abatement.

Mrs. Simmons sought clarification as to how many students attend and whether the building housed only Windham Academy now. Mr. Dubay replied in the affirmative to the latter, and noted there are approximately 40 students.

Mrs. Simmons then inquired how many other communities have adopted the statute, and Mr. Lessard indicated he did not have any numbers regarding the number of charter schools housed in taxable buildings or towns that have adopted the statute. Mrs. Simmons then also expressed that this should go to the taxpayers.

Mr. McLeod expressed concurrence with Mr. Partington; noting revenues will be down this year and the Board will need to pay attention to such things. He also expressed some skepticism at the assertions regarding savings; noting if one or two kids are removed from a classroom, the teacher is not eliminated, nor are transportation costs. Mr. McLeod did indicate he appreciated the opportunity that Windham

Academy provides, however, he would not support a 100% abatement or anything more than the 10% in the statute.

Discussion ensued, with input from Mr. Dubay and WA Treasurer Chris Baker, regarding the savings, cost per pupil, and the alternative that WA offers.

Mr. Hohenberger indicated he felt that 10% acknowledges there is some town expense involved, and then moved to grant the abatement request for the property located at 13A-198 that Windham Academy occupies for 90% of the assessed value in 2019; contingent upon the monies being used for the academy and it being a one year abatement. Discussion ensued.

Mr. Sullivan suggested the motion be to abate 90% of the assessed value in 2019, contingent upon it being cost neutral to Windham Academy. Further discussion ensued. Mr. Breton seconded the motion.

Mr. Baker expressed concerns as to whether cost neutral applies in this case, as the abatement will benefit Windham Academy. He explained that this does not impact the owner, but benefits the Academy which is directly responsible for the taxes. Further discussion ensued.

Mr. Hohenberger amended his motion to be “revenue neutral”. Mr. Breton affirmed his second. Roll call vote – all “yes” save for Mr. Partington.

Mrs. Simmons reiterated she would like to see this on the ballot in March, and Mr. Partington explained he had voted no as he did not believe this was his money to give.

After further discussion regarding this being a 2019 abatement, and they will return in 2020, as well as the billing period versus the time one can file an abatement, there were no further decisions.

BID AWARD – SEARLES TOWER STONE WORK: Mr. Sullivan explained that the bid had been sent out several weeks ago to ten recommended vendors, but it was discovered that due to staff error it had not been advertised. He advised two bids had been received and he had spoken to both individuals and neither had any objection to holding the bids, so it had been extended and advertised for a period of two weeks. Mr. Sullivan advised that four bids had been received overall, as follows:

<i>Vendor</i>	<i>Total Cost</i>
<i>Allstate Water Proofing Company, New Hartford, CT</i>	<i>\$106,680</i>
<i>Hascall and Hall, Portland, ME</i>	<i>\$105,947</i>
<i>Northeast Masonry, Concord, NH</i>	<i>\$74,880*</i>
<i>RHEMA, Plaistow, NH</i>	<i>\$125,000</i>

**Northeast bid is being reviewed by Trustees and may need to be adjusted to \$91,880 as the vendor added \$17,000 as an alternative add for repairs that should have been in base bid. Vendor also provided an additional alternative add price of \$9,920 to repair interior stones at the bell tower level which would be above based price.*

Betty Dunn, Searles Trustee, indicated the Trustees’ recommendation would be to award the bid to Northeast Masonry for their base bid, plus the alternative cost options.

Discussion ensued, with input from Trustees Dunn and Maureen Spooner, regarding review of the facility by all vendors, additional issues found by the structural engineer, the scope of work as bid, that all have good references/qualifications, and comparability of the bids received, including similarity of warranties.

Mr. Hohenberger moved and Mr. Breton seconded to award the bid to Northeast Masonry for an amount no to exceed \$101,800, inclusive of the alternative add prices of \$17,000 and \$9,920. Roll call vote – all “yes”.

DROUGHT MONITORING/UPDATE: Mr. McLeod advised that Windham is currently in a drought, which triggers the Board's authority under Town regulations adopted in 2016; adding that since then the State has amended RSA 41:11-d to strike the word "residential". He noted the questions before the Board were whether or not to schedule implementing restrictions and/or amending the regulations for a future meeting.

Mr. Sullivan further clarified the Board cannot take any actions this evening other than encouraging water conservation, as implementing restrictions requires posting. He indicated the Board had been provided a redline draft of proposed amendments to strike "residential" as well as amend the effective date and posting period; the first to reduce the period of time before restrictions go into effect and the second regarding advance notice of the intent to discuss given that the drought map comes out on Thursdays.

Discussion ensued, and Mr. Partington suggested that 14 days be changed to 10 in the last section. Mr. Sullivan advised the intent was to be consistent with other regulations, but it could be changed.

Mr. McLeod suggested removal of "of Selectmen" where it appears throughout; concurring with the proposed amendments as well as Mr. Partington's suggested change.

Further discussion ensued, and it was the consensus to post discussion of the amendments, as well as possible restrictions, for the next meeting.

GENERAL SERVICES DIRECTOR: Mr. Sullivan explained that Mr. Senibaldi was requesting to take the clean and tested catch basin materials from the old landfill and move them to the Spruce Pond future fields site off Northland Road. He indicated he had advised the residents of Northland Road that this would be considered this evening, and had explained to them this had nothing to do with the pumping station but with the Town lot.

Mr. Senibaldi further explained that Spruce Pond has a lower and upper field, and the latter will eventually need approximately 10,000 yards of fill material. He reminded all that, this year, the catch basin had been done via vacuum cleaning, which was very successful; however there is no room at the old landfill for the material. Mr. Senibaldi noted there is a section at the upper field where the materials could be placed, and they would then be covered with loam; adding that next year additional materials could also be deposited there once they have tested clean. He noted approximately 400 to 500 yards of material is involved, and it would be dumped over a cliff where we will be filling; clarifying it consists of dirt and leaves, has been tested for all heavy metals, and the results are within all parameters. Discussion ensued regarding the success of vacuum cleaning versus clamshell.

Mr. Alan Chon, 9 Duston Road, expressed concerns regarding leaving the material in the neighborhood and what plans are for the duration; questioning how long it will be as the fields are not yet approved and expressing concern it will linger as an eyesore for an extended period of time.

Mr. Senibaldi clarified that the material will not be visible as it will be buried under existing material at the site; adding nobody from the street or area homes/businesses will be able to see it unless they walk up to the second field and look down over the cliff. He further explained that the fields are an approved project, having been through the planning process, and part of the deeds for Spruce Pond is to have the fields. Mr. Senibaldi reiterated the material will be part of the 10,000 yards of fill that will be needed for the upper field.

Mr. Chon then inquired about smell from the material; questioning who had evaluated whether there is any now. He also inquired whether it was known that after a period of time the metals will not change and cause an issue.

Mr. Senibaldi noted there is no odor, as it is just dry material with no exposure; adding it there will be no additional chemicals or additives to it and, year after year, testing results have been the same. He noted that the location where it will be placed is approximately 400 yards from Northland Road and 300

yards from Route 28; reiterating it will be covered. Mr. Chon advised that Mr. Senibaldi had answered his questions, and expressed appreciation for his time and sincerity in responding.

Mr. Hohenberger moved to allow Mr. Senibaldi to move material from the old landfill to the fields at Spruce Pond. Mr. Senibaldi clarified he was also seeking pre-emptive authorization to move material next year contingent on clean test results. Discussion ensued, and it was the consensus to approve just one year.

Mr. Breton seconded the motion. Roll call vote – all “yes”.

USE OF TOWN FACILITIES: Mr. McLeod explained he had requested this agenda item to discuss the use of town facilities; referring to the Governor’s executive order indicating that the best way to prevent the spread of Covid is to follow certain steps including wearing a mask. He reminded the Board that, at the previous meeting, the Board had supported Mr. Sullivan’s recommendations regarding reopening of the Town facilities. Mr. McLeod noted his concern is that the virus situation is not getting better, rather it is getting worse, and it seems the best thing to do is wear masks in close settings, particularly indoors where viral loading can be more pronounced. He suggested that all participants in town meetings within Town facilities wear masks, including the ZBA, PB, EDC, and other committees. Mr. McLeod felt that the Board can set parameters around the use of the facilities; adding it goes along with what Mr. Sullivan is doing to protect the employees.

Lengthy discussion ensued amongst the members regarding requiring masks, other CDC recommendations, personal responsibility, the need for consistency, and continued use and/or issues with zoom for meetings. Mr. Sullivan clarified there had been no issues with the latter save for one committee who had used a personal zoom account that was limited time-wise.

Chief McPherson noted that NH is doing well keeping the number of cases down; agreeing that if the Board is going to require masks they be mandatory for all buildings including employees when people come into the building. He noted that masks and social distancing are what are keeping numbers down; adding it is prudent to promote distancing and wearing masks as there are lots of asymptomatic people. Chief McPherson explained that employees also continue to do daily health checks.

IT Director Eric Delong noted that masks prevent one from spreading the virus, not from getting it; expressing support for their being mandatory.

Further, lengthy discussion ensued regarding the use of masks, personal responsibility, the need for cleaning protocols, and air quality.

Mr. Breton then moved to require the use of masks in the public portions of town buildings and that a checklist be put at meeting rooms regarding cleaning and disinfecting of same. Mr. Partington seconded. Roll call vote – all “yes” save for Mr. Hohenberger, citing personal responsibility.

Discussion then moved to cleaning of the buildings and meeting rooms, with Mr. Sullivan clarifying that cleanings are being done on a rotating basis of all the buildings including door handles, etc.

Mr. Breton expressed concerns regarding the cloth table coverings in the meeting rooms, which are not sanitized. Discussion ensued, with input from Mr. Coole, and it was the consensus to remove the cloths.

Mrs. Simmons sought clarification that Mr. Sullivan will advise all the committees that masks are mandatory and whether zoom will remain an option. Mr. Sullivan replied in the affirmative; adding that so long as the executive order remains in place zoom is an option, however, at some point it will expire and a physical quorum will be required.

DISPATCH SERVICES: Chief Lewis explained there had recently been a 9-1-1 call that had gone to Derry dispatch, however they were busy and did not pick up in the required time which then diverted the call to Pelham via the automatic drop down process. He noted that Pelham had been established years ago as the backup and, while there has not been an issue, he would request that the Board designate

Windham PD as the designated dispatch backup; explaining it made sense to have us answer Windham's fire department calls in such cases. Chief Lewis noted the State needs to have the change on record.

Mr. Hohenberger moved and Mr. Breton seconded to designate the Windham Police Department as secondary dispatch agency for Fire and EMS calls. Mr. Breton second. Roll call vote - all "yes".

OLD/NEW BUSINESS: Mr. Sullivan requested that the Board authorize someone to execute the Legion lease in place of Mr. McLeod.

Mr. Hohenberger moved and Mrs. Simmons seconded to allow Mr. Breton to sign in place of the Chairman. Roll call vote – all "yes".

MINUTES: Mr. Hohenberger moved and Mr. Partington seconded to approve the minutes of 6/1 as written. Roll call vote – all "yes".

CORRESPONDENCE: None.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Breton seconded to enter into nonpublic session in accordance with RSA 91-A:3 II a, b, d, and e. Roll call vote – all "yes". The Board and Mr. Sullivan were present.

Personnel – Mr. Sullivan presented a candidate for lifeguard hiring. Mr. Hohenberger moved and Mr. Breton seconded to hire the recommended candidate subject to applicable background and medical checks. Roll call vote – all "yes".

Personnel – Mr. Sullivan updated the Board on an employee leave matter. Mr. Hohenberger moved and Mr. Breton seconded to have staff send the employee a letter regarding their leave status. Roll call vote – all "yes".

Legal – Mr. Sullivan updated the Board on an individual's interest in purchasing lot 8-B-4401, located between Libbey Road and Route 28, noting that the individual was interested in accepting the Board offered sale price with contingencies. The consensus of the Board was to have Mr. Sullivan reach out to abutting property owners to obtain comments on the possible sale of the property and the status of Libbey Road after any such sale.

Legal – Mr. Sullivan updated the Board on negotiations with the Town of Salem in regards to a Water Operations Agreement between the two communities. No decisions were made.

Legal – The Board discussed a pending tax abatement appeal. Mr. Breton moved and Mr. Hohenberger seconded to seal this portion of the non-public minutes pending completion of the case. Roll call vote – all "yes".

Mr. Hohenberger moved and Mr. Breton seconded to come out of non-public session. Roll call vote – all "yes".

Mrs. Simmons moved and Mr. Partington seconded to adjourn the meeting. Roll call vote – all "yes".

Meeting adjourned at 9:38 pm.

Respectfully submitted,

David Sullivan, Town Administrator
Wendi Devlin, Administrative Assistant